

Message Text

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TO SECSTATE WASHDC IMMEDIATE 8020

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FOR WALENTYNOWICZ FROM JOVA

E.O. 11652: N/A

TAGS: CGEN, CASC, MX

SUBJECT: CONGRESSIONAL/DEPARTMENT INTERVIEWING TEAM

REF: MEXICO 4605

1. TODAY I RAISED MATTER OF INTERVIEWING TEAM ONCE AGAIN WITH RABASA IN SENATOR JAVITS' PRESENCE. RABASA SAID THAT HE HAD STUDIED TEXT OF CONSULAR CONVENTION AND WAS FULLY PREPARED TO MEET OUR WISHES TO THE EXTENT PROVIDED BY THE CONSULAR CONVENTION. I SUGGESTED THAT THIS BE EXPANDED SLIGHTLY TO THE EXTENT OF PERMITTING A CONGRESSIONAL STAFF MEMBER TO BE PRESENT NOT TO PARTICIPATE IN THE INTERROGATION BUT MERELY TO OBSERVE AND TO ENSURE (AND I WAS EMBARRASSED EVEN TO PUT THIS INTO WORDS) THAT CONSULAR PRESSURES WERE IN NO WAY EXERTED ON THE PRISONERS. RABASA REPLIED THAT THIS WAS ABSOLUTELY IMPOSSIBLE, THAT ANYTHING THAT MADE IT APPEAR THAT U.S. CONGRESS WAS INVESTIGATING MEXICAN INSTITUTIONS WITHIN MEXICO WAS UNACCEPTABLE, WOULD CREATE A POLITICAL STORM THAT WOULD HARM U.S./MEXICAN RELATIONS, THE EMBASSY AND THE FOREIGN MINISTER. AS REGARDS CONSULAR OFFICERS, HE SAID HE COULD NOT UNDERSTAND OUR OBJECTION IN THIS REGARD, THAT IF THERE WERE CERTAIN CONSULAR OFFICERS THAT WE DID NOT TRUST IT WAS UP TO US TO REPLACE THEM. HE WAS QUITE WILLING TO

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RECEIVE NEW, HIGHER-RANKING CONSULAR OFFICERS ANY TIME WE WISHED TO ACCREDIT THEM. HE DID NOT OBJECT TO MORE THAN ONE CONSULAR OFFICER PARTICIPATING IN THE INTERROGATION, BUT HERE AGAIN HE STRESSED THAT IT WAS UP TO US TO BE DISCREET AND TO SAFEGUARD APPEARANCES, BUT HE COULD IN NO WAY ACCEPT CONGRESSIONAL PARTICIPATION. SENATOR JAVITS GAVE HELPFUL SUPPORT DURING THE CONVERSATION AND SUGGESTED THAT THE NEW PROCEDURE OF CONGRESSIONAL SUBPOENA MIGHT BE UTILIZED, AS THE COURTS HAD RECENTLY FOUND THAT SUCH SUBPOENAS WERE EVEN MORE BINDING THAN THOSE OF A JUDGE. HE SUGGESTED THAT WHILE THE INTERROGATION UNDER THE SUBPOENA BE CARRIED OUT BY A CONSULAR OFFICER, THIS MIGHT BE IN THE PRESENCE OF A CONGRESSIONAL COMMITTEE STAFF MEMBER RATHER THAN A MEMBER OF THE STAFF OF A SINGLE CONGRESSMAN. RABASA POINTED OUT THAT CONGRESSIONAL SUBPOENAS DID NOT EXIST IN MEXICO AND CERTAINLY THAT U.S. SUBPOENAS DID NOT EXTEND TO MEXICAN PENAL SYSTEM. HE REITERATED THAT U.S. CONGRESSIONAL INVOLVEMENT WOULD BE POISON FOR ALL CONCERNED.

2. I SAW RABASA ONCE AGAIN LATER IN THE DAY IN THE COMPANY OF OTHERS. ON LEAVING I AGAIN SPOKE TO HIM ALONE, POINTING OUT THAT THE PRESENCE OF A SINGLE CONGRESSIONAL ASSISTANT WOULD RELIEVE OUR PROBLEM GREATLY. RABASA AGAIN WAS ADAMANT AND SAID NO CONGRESSIONAL PARTICIPATION, BUT ON THE OTHER HAND GOM WILL GO AS FAR AS CONSULAR CONVENTION PERMITS. HE THEN SAID, SPEAKING PERSONALLY, THAT IF USG WERE TO DECIDE TO PROVIDE CONSULAR COMMISSION TO A CONGRESSIONAL STAFF MEMBER HE WOULD NOT, OF COURSE, GO BEHIND THE WORD OF THE UNITED STATES GOVERNMENT. THE RESPONSIBILITY FOR THE CONDUCT UNDER CONSULAR DISCIPLINE OF THE PERSON, OF COURSE, WAS ON US IN THIS REGARD. I THANKED HIM AND SAID I WOULD GIVE THIS CONSIDERATION.

3. I HAVE CONSIDERED THE MATTER CAREFULLY AND I AM VERY CONCERNED. FIRST OF ALL, I MUST WARN AGAINST TAKING THE EASY WAY OUT AND FOLLOWING A PROCEDURE WHICH IS TRANSPARENT AT BEST AND CERTAINLY PLACES HEAVY RESPONSIBILITY ON US. I WOULD STRONGLY ADVISE AGAINST COMMISSIONING A CONGRESSIONAL STAFF MEMBER UNLESS THIS WERE CAREFULLY STUDIED AT HIGHEST LEVELS OF THE DEPARTMENT AND I SHOULD THINK THIS WOULD INCLUDE THE SECRETARY'S OFFICE, THE DIRECTOR GENERAL'S LIMITED OFFICIAL USE

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OFFICE, THE LEGAL ADVISER, CONGRESSIONAL RELATIONS AND THE ARA BUREAU. EVEN IF SUCH COMMISSIONING PROCEDURE WERE LEGALLY POSSIBLE AND ACCEPTABLE TO CONGRESSMAN STARK AND THE COMMITTEE, IN CONSIDERING THIS MATTER WE SHOULD KEEP IN MIND THE SPECTACLE WE ARE CREATING WHEREIN A FOREIGN OFFICIAL HAS TO ASK US THE EMBARRASSING QUESTION OF WHETHER WE DO NOT TRUST OUR OWN CONSULAR OFFICERS, EVEN

THOSE NOT EVEN REMOTELY CONNECTED WITH THE MEXICAN PRISONS QUESTION.

4. I TRULY BELIEVE THAT AN OBJECTIVE CONSULAR OFFICER, WHETHER IT IS OUR NEWLY-ARRIVED CONSUL GENERAL FRED SMITH (WHO HIMSELF HAS A LEGAL BACKGROUND) OR A DULY COMMISSIONED CAREER CONSULAR OFFICER DETAILED HERE BY THE DEPARTMENT FOR THIS PURPOSE, SHOULD BE ABLE TO CONDUCT THE REQUIRED INTERVIEWS AND TO OBTAIN SUCH DEPOSITIONS AS MIGHT BE NECESSARY. I BELIEVE THAT WORKING WITH CONSULAR OFFICERS, OUR OWN (WHICH I CONSIDER LESS OFFENSIVE AND IN THE LONG RUN MORE MUTUALLY BENEFICIAL TO OUR CONSULAR OPERATIONS HERE) OR FROM ELSEWHERE, WE SHOULD BE ABLE TO WORK OUT RELATIVELY FLEXIBLE PROCEDURES (WHICH MIGHT INCLUDE STENOGRAPHIC ASSISTANCE). WE DO, AFTER ALL, ENVISAGE USING QUESTIONS PREPARED WITH THE HELP OF THE CONGRESSIONAL STAFF MEMBERS CURRENTLY VISITING HERE.

5. IN ANY CASE, THE MEXICAN STAND ON CONGRESSIONAL PARTICIPATION IS CLEAR AND I CONSIDER IT UNWISE AND COUNTER-PROMPTIVE TO RAISE THIS ASPECT OF THE MATTER AGAIN. AS YOU WILL NOTE, HOWEVER, RABASA HAS SHOWN FLEXIBILITY AND GOOD WILL WITHIN THE LIMITS THE GOM HAS SET FOR HIM.

JOVA

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